STATE OF ILLINOIS – DEPARTMENT OF LABOR 160 N. LASALLE ST., STE. C-1300 CHICAGO, ILLINOIS 60601

IN THE MATTER OF:)
RYAN MCDONALD AND JARED REYNOLDS AND TIMOTHY HANNA AS MEMBERS OF LOCAL 145 OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO))))
PETITIONER(S), v.) STATE FILE NO. 2019-H-PK09-2304) DATE OF NOTICE: 10/2/20/8
JOSEPH BEYER, DIRECTOR OF THE ILLINOIS DEPARTMENT OF LABOR, and THE ILLINOIS DEPARTMENT OF LABOR,) CERT. MAIL/RETURN RECEIPT:) 7017 2620 0001 0467 7062
RESPONDENTS.)

NOTICE OF HEARING

PLEASE TAKE NOTICE that Joseph Beyer, Director of the Illinois Department of Labor, and the Illinois Department of Labor [hereinafter, "Respondents"] have received from Ryan Mcdonald And Jared Reynolds And Timothy Hanna As Members Of Local 145 Of The International Brotherhood Of Electrical Workers, AFL-CIO, [hereinafter, "Petitioner(s)"] written objections to the prevailing wage determinations posted by the Department on its website on August 15, 2018, and a request for hearing on those objections pursuant to Section 9 of the Prevailing Wage Act [hereinafter, "IPWA" or "Act"], 820 ILCS 130/0.01 et seq.

Pursuant to the PWA, Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5 et seq., and 56 Ill. Admin. Code 120.100 et seq., Respondents will convene a hearing on:

DATE:

OCTOBER 25, 2018

TIME:

2:00 P.M.

PLACE:

ILLINOIS DEPARTMENT OF LABOR

160 NORTH LASALLE STREET, SUITE C-1300

CHICAGO, ILLINOIS 60601

ADMINISTRATIVE LAW JUDGE:

CLAUDIA MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601

The hearing involves the written objections and hearing request filed by Petitioner(s), attached hereto and made a part hereof (Exhibit A).

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the administrative law judge shall issue a Decision and Order. In the event no timely or proper exceptions are filed, the findings, conclusions, recommendations and order of the administrative law judge shall automatically become the decision and order of the Director of Labor.

The proceedings are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 et seq. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law.

Joseph Beyer

Director of Labor

STATE OF ILLINOIS — DEPARTMENT OF LABOR CONCILIATION/MEDIATION DIVISION 160 N. LASALLE ST., STE. C-1300 CHICAGO, IL 606011

IN THE MATTER OF: LOCAL 145 OF THE INTERNATIONAL BORTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, and RYAN MCDONALD as a Member of LOCAL 145 OF THE INTERNATIONAL STATE FILE NO .: BORTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, and JARED REYNOLDS, as a Member of LOCAL 145 OF THE INTERNATIONAL BORTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, and 2019-H-PK 09-2304 TIMOTHY HANNA, as a Member of LOCAL 145 OF THE INTERNATIONAL BORTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, Petitioners, **EXHIBIT A** ٧. JOE BEYER, DIRECTOR OF LABOR and the ILLINOIS DEPARTMENT OF LABOR, Respondents.

OBJECTIONS AND REQUEST FOR SECTION 9 HEARING

Petitioners Local 145 of the International Brotherhood of Electrical Workers, AFL-CIO, and Ryan McDonald, as a member of Local 145 of the International Brotherhood of Electrical Workers, and Jared Reynolds, as a member of Local 145 of the International Brotherhood of Electrical Workers, and Timothy Hanna, as a member of Local 145 of the International Brotherhood of Electrical Workers by and through their undersigned attorney, hereby object to the Illinois Department of Labor's ("the Department") August

- 15, 2018 Prevailing Wage Schedule and request the Department to correct the published rates as set forth herein or, alternatively, request a hearing pursuant to Section 9 of the Prevailing Wage Act. 820 ILCS §130/9. In support of this objection, Petitioners state as follows:
- 1. Local 145 of the International Brotherhood of Electrical Workers, AFL-CIO (hereinafter "Local 145" or the "Union") is an unincorporated association with its principal officer in Moline, Illinois and is a labor organization representing individuals performing work as inside and outside electricians and systems technicians in counties in northwest Illinois. Local 145 files these objections on behalf of itself and its members.
- Local 145's jurisdiction covers the following counties or portions thereof:
 Carroll, Henry, JoDaviess, Mercer, Rock Island, and Whiteside.
- 3. Local 145 is party to collective bargaining agreements ("CBAs") setting forth terms and conditions of employment, including wages and fringe benefits in all of the classifications and in all of the counties covered in these objections.
- 4. Local 145 represents workers in the following trades which are subject to the prevailing wage rates: Electric Power Equipment Operator, Electric Power Groundman, Electric Power Lineman, Electrician, and Electronic Systems Tech (Communication Tech).
- 5. From time to time, Local 145 refers applicants to perform work on public works jobs in the classifications and counties covered by these objections.
- 6. Ryan McDonald is a member of Local 145 and from time to time performs work on public works projects as an inside wireman in a county covered by these objections under Local 145's collective bargaining agreements.

- 7. Jared Reynolds is a member of Local 145 and from time to time performs work on public works projects in the systems tech classification in a county covered by these objections under Local 145's collective bargaining agreements.
- 8. Timothy Hanna is a member of Local 145 and from time to time performs work on public works projects in outside lineman classifications in a county covered by these objections under Local 145's collective bargaining agreements.
- 9. For years, in furtherance of the Section 9 process, Local 145 submitted prevailing wage certification forms listing collectively bargained wage rates and fringe benefits for inside and outside electrician and system technician classifications in various Illinois counties to the Department in May or June of each year.
- 10. Historically, and as recently as last year, the Department has accepted Local 145's submissions and have used the information provided by Local 145, including the wage and fringe benefits paid to Local 145 represented employees in the applicable classifications as set forth in Local 145's CBAs, to set the prevailing rate of wages for those classifications in the counties covered by these objections.
- 11. On or around May 31, 2018, the Department posted an online survey with links to a "Contractor Survey" and a "Union Survey" by which entities and persons could submit information about wages and fringe benefits on public works jobs.
- 12. The Contractor Survey includes a field to report the number of workers in a trade and county who performed work on public works jobs from 6/1/2017 to 5/31/2018. It also includes a field to report the total hours worked by all employees in a trade and county on public works jobs from 6/1/2017 to 5/31/2018.

- 13. The Union survey includes a field to report the number of workers in a trade and county who performed work on public works jobs from 6/1/2017 to 5/31/2018. It does <u>not</u> include a field to report the total hours worked by all employees in a trade and county on public works jobs from 6/1/2017 to 5/31/2018.
- 14. A representative of Local 145 timely completed and submitted the Union Survey, showing the wage and fringe rates for the classifications and counties covered by this objection.
- 15. On August 15, 2018, the Department published the Current Prevailing Wage Rates on its website.
- 16. On or around August 21, 2018, the Department posted information on its website, providing an explanation of the methodology used by the Department for determining the statewide rates the Department published on August 15, 2018, as well as a spreadsheet listing all survey submissions that were considered in determining the published rates.
- 17. Among other things, the methodology sets forth criteria upon which the Department based its determination for each "combination," meaning each category of work in each county, stating:
 - If the Department received one—and only one—valid response from a contractor for the combination, the Department published the wage and fringe benefit rates contained in that response as the prevailing wage rates for the combination.
 - If the Department received more than one valid response from contractors for the combination, the Department published the wage and fringe benefit rates contained in the response submitted by the contractor indicating that it had worked the most hours in the combination between June 1, 2017 and May 31, 2018 as the prevailing wage rates for the combination.

- If the Department received no valid responses from contractors, and a valid response from one—and only one—union, for the combination, the Department published the wage and fringe benefit rates contained in that response as the prevailing wage rates for the combination.
- If the Department received no valid responses from contractors, and a valid response from more than one union, for the combination, the Department published the wage and fringe benefit rates contained in the response submitted by the union who, Department records indicated, had, in prior years, submitted wage and fringe benefit rates that the Department had published as the prevailing wage rates for the same combination in those years.
- Finally, if the Department received no valid responses at all for the combination, the Department republished the previously published rates for the combination.
- 18. The methodology changed the process by which the Department investigated and ascertained the prevailing wage rate, and in particular used different criteria than in the past to prioritize responses from contractors and to discount responses from unions and contractor associations.
- 19. The Department did not notify the Union in advance of this change in methodology.
- 20. Petitioners object to the prevailing wages rates published on August 15, 2018.
- 21. Attached hereto as Exhibit 1, and incorporated herein, is a summary of Petitioners' objections, showing the rates of each classification, in each county, to which the Union objects and also showing the correct prevailing wage rate for that classification as of June 2018. (Exhibit 1 does not reflect any increases in wages and fringes that occurred after June 2018. Petitioners attach a separate Exhibit 2 for rates that changed after June 2018.)

- 22. Some of the rates to which the Petitioners object are incorrect either due to errors made in responses submitted by Local 145 contractors or possibly errors by the Department in transcribing data. These errors include but are not limited to:
 - a. Rates do not reflect increases:
 - b. Rates include the wrong rate or no rate for foreman:
 - Rates are for the wrong quadrant or portion of a county, the 2017 rates
 were used because data was ascribed to the wrong quadrant, or
 portion of a county;
 - d. Rates for overtime are omitted or incorrect;
 - e. Rates show the wrong amount for a fringe benefit, do not include certain fringe benefits, or include amounts that should not be included as a fringe benefit.
- 23. The Union is in the process of contacting signatory contractors to request that they contact the Department with the appropriate corrections to the extent a contractor submitted incorrect information. But, even if a contractor fails to provide this information, the Department should make the requested corrections.
- 24. There are several counties where the rates for the Electric Power Equipment Operator, Truck Driver, Groundman, and Lineman classifications are wrong for the portion of the county within Local 145's jurisdiction. It appears that the Department used rates submitted by another IBEW Local to set the prevailing wage in these counties as a whole. Petitioners request the Department to use their rates in those portions of the county within Local 145's jurisdiction as designated on Exhibit 1.

- 25. In addition, the Department incorrectly designated certain outside electrician classifications as Highway. Petitioners seek their rates to be used for these classifications for all work, both Building and Highway. The Department should remove the Highway rates for any portion of a county within Local 146's jurisdiction.
- 26. Local 145 inadvertently submitted the wrong rate for the groundman classification in Rock Island County. The Department should correct the rate so that it is the same as the groundmen classification rate in the other counties.
- 27. There is one county JoDaviess County where Local 145 refers employees to work as Communication Technicians on public works jobs. The Communication Tech rates for the portion of this county in Local 145's jurisdiction should be as submitted by Local 145.
- 28. The other rates to which the Petitioners object are based on information submitted by non-signatory contractors. Petitioners object to these rates as being the "prevailing rate" for a variety of reasons including but not limited to:
 - a. The Department deviated from past practice and the status quo by not using the wage and fringe benefits paid to Local 145 represented employees, as set forth in Local 145's CBAs, to determine the prevailing rate of hourly wages for the classifications in the counties.
 - The Department failed to give notice to Local 145 that it had changed its methodology.
 - The Department failed to engage in required rule-making to change its methodology.

- d. The Department arbitrarily and unreasonably determined to favor responses from one - and only one - contractor over responses from a union or a contractor association.
- e. The Department apparently relied on rates paid by the non-signatory contractor at the time of the work in question rather than consider any increases since that time.
- f. The Department failed to properly consider or ignored information submitted by Local 145 and a contractor association about the number of workers in a trade and county who performed work on public works jobs.
- g. The Department failed to give Local 145 the opportunity to submit information about the total hours worked by all employees in a trade and county on public works jobs.
- 29. In some instances, the Department accepted wage and fringe data submitted by a single contractor, showing only a few hours of work, to set the prevailing rate of wages for a particular classification in a particular county.
- 30. In addition, the Department in relying on rates reportedly paid by the contractor at the time of the work in question is effectively freezing the prevailing wage at last year's rate, when the Department should consider any increases as of the month of June 2018.
- 31. Petitioners also object to all the rates in all the classifications and counties in the Union's jurisdiction if they do not require overtime at time and one-half after eight hours on Monday through Friday. The Union's CBAs require time and one-half after

eight hours. (Exhibit 1 does not include this correction for every classification in every county.)

- 32. Based on the Act, as confirmed by past practice, the wage and fringe benefits paid to Local 145 represented employees, as set forth in Local 145's CBAs, determine the prevailing rate of hourly wages for the classifications in the counties.
- 33. Furthermore, and in fact, the wage and fringe benefits paid to Local 145 represented employees, as set forth in Local 145's CBA's are the most frequently paid wage and benefit rates to employees on public works in the classifications and counties covered by this objection.
- 34. Finally, effective September 3, 2018, the wage and fringe rates for the electronic system tech classification increased. Petitioners seek to include these increases in all counties in Local 145's jurisdiction. Attached hereto as Exhibit 2 is a chart showing these increased wage and fringe rates.
- 35. Under Section 9 of the Act, the Department may correct the rates and publish corrected rates following a hearing.
- 36. Under Section 9 of the Act, "[n]othing prohibits the Department from publishing prevailing wage rates more than once per year."
- 37. Local 145 signatory contractors are at a competitive disadvantage resulting from the Department's published prevailing wage rates.
- 38. Local 145 and its members are harmed by the Department's published prevailing wage rates, in that they could lose work opportunities on public works jobs, and in the form of downward pressure placed on their wages and benefits due to the Department's determinations.

39. Petitioners request that the Department correct the existing Prevailing Wage Schedule to reflect the correct prevailing wage rates as set forth herein and Exhibits 1 & 2.

40. Alternatively, Petitioners request a hearing on these objections and a ruling that that rates as set forth herein and Exhibits 1 & 2 are the prevailing wage rates for the classifications and counties covered by this objection.

For the reasons set forth above, Petitioners object to the prevailing wage rates as described herein, and for the reasons set forth herein. Petitioners request that the Department correct the published rates or, alternatively, request a hearing on these objections pursuant to Section 9 of the Prevailing Wage Act (820 ILCS 130/9).

Respectfully submitted,

Christopher N. Grant (III. Bar #6277560)

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(314) 621-2626 (314) 621-2378 (fax)

cng@schuchatcw.com

September 14, 2018

cc: Cory Bergfeld, via e-mail Paul Noble, via e-mail

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	Trade	Geograp hic Division	Class Type	Organitation Name	Hourly Wage	foreman Hourly Wage	Overtine Type	Monday through Friday OT Rate	Salurday OT Rate	Sunday OT Rate	Hollday OT Rate	Health Insuranc e Hounly Fringe	Health Pension/ Insuranc Retiremo e Hourly nt Hourly Fringe Fringe	Vacation Hourly Fringe	Training Hourly Fringe	Other Hourly Fringe
	ELECTRIC PWR EQMT OP	¥ ≥	All	IDOL Rate Correct Rate	\$42,59	\$57.95 \$47,32	(OMITTED) After 8 houss in a day	1.5	1.5	2.0	2.0	\$5-75 \$6.43	\$13,21 \$9,53	\$0.00	\$0.75	\$8.00
<u> </u>	ELECTRIC PWR GRNOMAN	₹≯	ALL	IDOL Rate Correct Rate	\$33.85 \$28.38	\$47.32	[OMITTED] After 8 hours in a day	1.5	1.5	2.0	2.0	55-75 55-32	6±0.20 \$7.95	\$0.00	\$0.58 \$0.28	\$0.00
	ELECTRIC PWR LINEMAN	w ₩	ALL	IDOL Rate Correct Rate	\$51.06 \$43.02	657.9 5 \$47.32	[OMITTED] After 8 hours in a day	1.5	1.5	2.0	2.0	\$5.25 \$6.61	\$15,85 \$12.05	\$0.00	\$8.90 \$0.43	\$0.00
L	ELECTRIC PWR TRK DRV	₹≯	ALL	IDOK Rate Correct Rate	\$34.03 \$29.60	\$57.95	(OMITTED) After 8 hours in a day	1,5	1.5	2.0	2.0	\$5.75 \$6.34	\$10.65 \$8.29	20,03	\$0.60 \$0.30	\$0.00
	ELECTRIC PWR EQMT OP	Z Z	ALL ALL	IDOL Rate Correct Rate	\$45,09 \$34,05	\$56.52 \$47.32	(OMITTEO) After 8 hours in a day	1.5	1.5	2.0	2.0	\$7.10 \$6.43	\$12.62 \$9.53	\$0.00	\$0.45 \$0.34	\$0.00
<u> </u>	ELECTRIC PWR GRNDMAN	₹ ≥	ALL ALL	IDOL Rate Correct Rate	\$28.38	\$56-52 \$47.32	[OMITTED] After 8 hours in a day	1.5	1.5	2,0	2.0	55.67 \$6.32	\$9.62 \$7.95	\$0.00	\$0 .31 \$0.28	\$0.00
ــــــا	ELECTRIC PWR LINEMAN	<u> </u>	Att Att	IDOL Rate Correct Rate	\$50-33 \$43.02	\$56.52 \$47.32	[UMITTED] After 8 hours in a day	1.5	1.5	2.0	2.0	\$7.25 \$6.61	\$12.05	\$0.00	50.50 50.43	\$0.00
	ELECTRIC PWR TRK DRV	₹ ≥	AIL	IDOL flate Correct Rate	\$31.3 2 \$29.60	\$56,5 2 \$47,32	(OMITTED) After 6 hours in a day	1.5	1.5	2.0	2.0	\$6,34	\$9.05 \$8.29	\$0.00	\$6.32 \$0.30	\$0.00
<u>. </u>	ELECTRICIAN	W. W.	010 010	IDOL Rate Correct Rate	\$34.50 \$35.00	(OMITTED) \$37.00	[OMITTED] After 8 hours in a day	1.5	1.5	2.0	2:0	\$8,21 \$8,58	\$12.91	\$0.00	50.31 \$0.31	\$0.00
Jobaviess	ICATION TECH (ELECTRONIC SYSTI	. A	910 810	IDOL Rate Correct Rate	\$25,49	\$44.38 \$27.24	[OMITTED] After 8 hours in a day	1.5	1.5	2.0	2.0	\$1.19 \$7.32	\$14.70 \$7.19	\$0.08	\$0.81 \$0.31	\$0.00
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\$35.00	CT-8C-5	\$25.49	\$34.05	\$34.05	528-63	\$28.38	535.00		\$24,75	\$25,49	\$42.59	\$34.05	\$32.86	\$28,38	\$53,06	\$43.02	£9 6 (13	\$29.60	\$34.50	\$35.00	\$24,75	\$25.49
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COMMUNICATIONS AGREEMENT WAGE PACKAGE L.U. 145, MOLINE, ILLINOIS EFFECTIVE SEPTEMBER 3, 2018

TOTAL	\$43.26 \$41.44 \$19.54 \$19.67 \$21.01 \$26.41 \$28.08 \$31.43	\$57.58 \$54.83 \$25.50 \$25.69 \$27.71 \$33.80 \$36.12 \$40.80 \$45.48	\$31.45 \$31.45 \$31.71 \$34.39 \$41.15 \$50.17 \$56.19
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<u>AMF</u> 0.60%	\$0.16 \$0.05 \$0.07 \$0.08 \$0.08 \$0.09 \$0.11	\$0.25 \$0.23 \$0.00 \$0.10 \$0.13 \$0.14 \$0.19 \$0.19	\$0.00 \$0.00 \$0.14 \$0.15 \$0.17 \$0.22 \$0.22
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NLMCC	\$0.11 \$0.00 \$0.00 \$0.00 \$0.11 \$0.11 \$0.11	\$0.11 \$0.00 \$0.00 \$0.00 \$0.11 \$0.11 \$0.11 \$0.11	\$0.00 \$0.00 \$0.00 \$0.11 \$0.11
NEBF 3%	\$0.82 \$0.77 \$0.35 \$0.35 \$0.42 \$0.42 \$0.46 \$0.54	\$1.24 \$1.16 \$0.52 \$0.52 \$0.64 \$0.69 \$0.93 \$1.65	\$0.69 \$0.69 \$0.77 \$0.85 \$0.93 \$1.08
PENSION	\$2.98 \$2.98 \$0.00 \$0.00 \$1.64 \$1.79 \$2.09 \$2.38	\$2.98 \$2.98 \$0.00 \$0.00 \$1.79 \$2.09 \$2.38	\$2.00 \$0.00 \$0.00 \$1.64 \$2.09 \$2.38
ANNUITY	\$3.65 \$3.65 \$0.00 \$0.00 \$2.01 \$2.19 \$2.56 \$2.56	\$3.65 \$0.00 \$0.00 \$2.01 \$2.92 \$3.65	\$3.63 \$0.00 \$0.00 \$2.01 \$2.56 \$2.56
H & W	\$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62	\$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62	\$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62 \$7.62
BASE	\$27.47 \$25.72 \$11.57 \$11.57 \$12.86 \$14.15 \$15.43 \$18.00 \$20.58	\$41.21 \$38.58 \$17.36 \$17.36 \$19.29 \$21.23 \$23.15 \$27.00 \$30.87	\$51.44 \$23.14 \$23.14 \$25.72 \$28.30 \$30.86 \$36.00 \$41.16
TIME.	FOREMAN INSTALLER TECHNICIAN A5% COMM/LV HELPER ** 45% 1ST PERIOD 50% 2ND PERIOD 55% 3RD PERIOD 60% 4TH PERIOD 70% 5TH PERIOD	TIME AND ONE-HALF: FOREMAN INSTALLER TECHNICIAN 45% COMM/LV HELPER ** 45% 1ST PERIOD 50% 2ND PERIOD 60% 4TH PERIOD 70% 5TH PERIOD 80% 6TH PERIOD 80% 6TH PERIOD 80% 6TH PERIOD	1NSTALLER TECHNICIAN 45% COMM/LV HELPER ** 45% 1ST PERIOD 50% 2ND PERIOD 55% 3RD PERIOD 60% 4TH PERIOD 70% 5TH PERIOD

^{**}Communication/Low Voltage Helper Contribution for H & W is only after 1000 hours have been worked



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CERTIFICATE OF SERVICE

Ryan McDonald And Jared Reynolds And Timothy Hanna As Members Of Local 145 Of The IBEW, AFL-CIO c/o Christopher N. Gant, Esq. Schuchat, Cook & Werner 1221 Locust Street, 2nd Floor St. Louis, Missouri 63103 cna@schuchatcw.com

Via messenger:

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Illinois Department of Labor c/o Benno Weisberg General Counsel Illinois Department of Labor 160 N. LaSalle St., Ste. C-1300 Chicago, IL 60601

Subscribed and Sworn to this_ day of Oct. , 2018

Notary Public

Official Seal Laura Mary Kotelman Notary Public State of Illinois My Commission Expires 12/03/2019